

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

In the Matter of the Search Regarding No. 4:18-mj-71

Sioux Falls, South Dakota
(And any garages, storage units
or outbuildings associated
therewith.)

APPLICATION FOR SEARCH AND SEIZURE WARRANT "REDACTED"

And

All vehicles on the property owned
or operated by Mariano
ARRIVILLAGA-Arana.

And

South Dakota [REDACTED] a
silver 2003 Honda CR-V

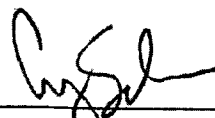
And

The person of Mariano
ARRIVILLAGA-Arana

I, Craig Scherer, being duly sworn depose and say:

I am a Special Agent with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), and have reason to believe that on the property or premises as fully described in Attachment A, attached hereto and incorporated herein by reference, there is now concealed certain property, namely: that which is fully described in Attachment B, attached hereto and incorporated herein by reference, which I believe is property constituting evidence of the commission of criminal offenses, contraband, the fruits of crime, or things otherwise criminally possessed, or property designed or intended for use or which is or has been used as the means of committing criminal offenses, concerning violations of 18 U.S.C. §§ 922(g)(5) and 1546(a) and 8 U.S.C. § 1326(a).

The facts to support a finding of Probable Cause are contained in my Affidavit filed herewith.



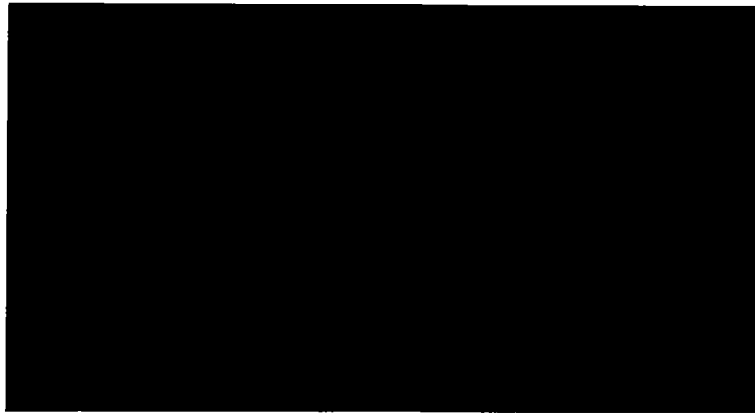
Craig Scherer, Special Agent
Homeland Security Investigations

Sworn to before me, and subscribed in my presence on the 25th day of October, 2018, at Pierre, South Dakota.



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A "REDACTED"
DESCRIPTION OF PROPERTY TO BE SEARCHED



1. [REDACTED] Sioux Falls, South Dakota, which is more particularly described as a grey colored single-family home, with white trim and an unattached two-stall garage. The numbers [REDACTED] are affixed to the front of the residence.
2. Any garages, storage units or outbuildings that are associated with [REDACTED]
[REDACTED] Sioux Falls, South Dakota.
3. Any vehicles present at the residence owned or operated by Mariano ARRIVILLAGA-Arana.
4. South Dakota [REDACTED], a silver 2003 Honda CR-V, registered to Isabel ARRIVILLAGA of [REDACTED] Sioux Falls, SD.
5. The person of Mariano ARRIVILLAGA-Arana, DOB: [REDACTED] or [REDACTED].

ATTACHMENT B "REDACTED"

DESCRIPTION OF PROPERTY TO BE SEARCHED FOR AND SEIZED

1. All identity documents, foreign or domestic, to include but not limited to birth certificates, passports, identification cards, driver licenses or social security cards.
2. All immigration documents, to include but not limited to cards, receipts, correspondence or other papers.
3. All correspondence relating to the employment of Mariano ARRIVILLAGA-Arana, or other persons residing at target location.
4. All persons determined to be in the United States contrary to law.
5. Evidence concerning the purchase, possession or sale of firearms and ammunition.
6. All cellular devices utilized by Mariano ARRIVILLAGA-Arana to include all contents and electronically stored records relating to violations of 18 U.S.C. §§ 922(g)(5) and 1546(a) and 8 USC § 1326(a), including:
 - a) any information related to the employment;
 - b) lists of contacts and related identifying information;
 - c) types, amounts, and prices of fraudulent documents, as well as dates, places, and amounts of specific transactions;
 - d) any information related to sources of fraudulent documents, including names, addresses, phone numbers, or any other identifying information;
 - e) Photographs and/or videos, in particular, photographs and/or videos of co-conspirators and fraudulent documents.
 - f) Evidence of user attribution showing who used or owned the device at the time the things described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored, including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

In the Matter of the Search Regarding No. 4:18-mj-71
[REDACTED]

Sioux Falls, South Dakota
(And any garages, storage units
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AFFIDAVIT IN SUPPORT OF AN
APPLICATION FOR A SEARCH
WARRANT "REDACTED"

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All vehicles on the property owned
or operated by Mariano
ARRIVILLAGA-Arana.

And

South Dakota [REDACTED] a
silver 2003 Honda CR-V

And

The person of Mariano
ARRIVILLAGA-Arana
[REDACTED]

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF MINNEHAHA)

I, Craig Scherer, being duly sworn on oath, depose and say:

1. I am a Special Agent with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) in Sioux Falls, South Dakota and have been duly employed in this position since December 2003. I am a graduate of the Criminal Investigator Training Program and ICE Special Agent Training at the Federal Law Enforcement Training Center.

2. As a Special Agent, one of my responsibilities is conducting criminal and civil investigations of violations of the Immigration and Nationality Act, which relate to an alien's right to presence and employment in the United States.

3. Through this affidavit, I am requesting a search warrant be issued for [REDACTED], Sioux Falls, South Dakota (and any garages, storage units or outbuildings associated therewith), all vehicles on the property owned or operated by Mariano ARRIVILLAGA-Arana to include South Dakota [REDACTED] a silver 2003 Honda CRV and the person of Mariano ARRIVILLAGA-Arana DOB: [REDACTED]

4. I respectfully submit this affidavit in support of an application for a warrant to search for and seize instrumentalities, fruits, and evidence of violations of 18 U.S.C. § 1546(a) Possession or Use of Fraudulent Documents, 8 U.S.C. § 1326(a) Illegal Re-entry, and 18 U.S.C. § 922(g)(5) Illegal Alien in Possession of Firearm.

5. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that evidence of violations of 18 U.S.C. § 1546(a) Possession or Use of Fraudulent Documents, 8 U.S.C. § 1326(a) Illegal Re-entry, and 18 U.S.C. § 922(g)(5) Illegal Alien in Possession of Firearm are located at the premises mentioned in this affidavit.

6. I have received information from other law enforcement officers and sources of information by either verbal or written report. The officers and sources providing information may have received the information by way of personal knowledge or from another source.

7. On 06/14/2018, I conducted a debrief of HSI Confidential Informant [REDACTED] who provided information about Mariano ARRIVILLAGA. [REDACTED] has previously provided credible information leading to arrests and seizures. [REDACTED] is deemed reliable and trustworthy by HSI. [REDACTED] stated a person known as Mariano ARRIVILLAGA, aka "Chumbo" is a citizen of Guatemala and suspected to be illegally present in the United States. [REDACTED] stated ARRIVILLAGA resides in Sioux Falls, SD, and works for an unknown construction company. [REDACTED] further stated ARRIVILLAGA was recently driving a red Toyota Tacoma pickup truck and is possibly in possession of firearms.

8. [REDACTED] showed me three (3) Facebook accounts used by ARRIVILLAGA. I reviewed the profiles and observed a photo posted 02/13/2017 of ARRIVILLA driving a new model red Toyota Tacoma.

9. I conducted record checks in DHS indices and positively identified ARRIVILLAGA as Mariano Alexander ARRIVILLAGA-Arana, DOB: [REDACTED] via photos from ARRIVILLAGA's Facebook accounts and alien records. ARRIVILLAGA was removed to Guatemala on 05/08/2009, at Phoenix, AZ. I found no evidence of ARRIVILLAGA receiving permission to re-enter the United States.

10. I subsequently received information from [REDACTED] stating ARRIVILLAGA works construction for [REDACTED] out of Hartford, SD. I determined [REDACTED], Hartford, SD.

11. On 08/28/2018, I contacted [REDACTED] and verified an individual known as Mariano ARRIVILLAGA was employed by [REDACTED]. I requested and received an application and Form I-9 related to ARRIVILLAGA from [REDACTED]. I reviewed the application which listed the name Mariano "Chumbo" ARRIVILLAGA, DOB: [REDACTED] Social Security number [REDACTED] and listed ARRIVILLAGA's schooling location as Guatemala. The application was signed on 09/07/2015, possibly meaning 07/09/2015. I reviewed the Form I-9 which listed the name Mariano ARRIVILLAGA, DOB: [REDACTED] and Social Security number [REDACTED]. The box attesting to be a Lawful Permanent Resident authorized to work was checked and listed alien file number [REDACTED]. The Form I-9 was signed by ARRIVILLAGA and dated 07/09/2015. The certification block on the I-9 listed Permanent Resident card [REDACTED] was presented as evidence of authorized employment. The certification was signed by Lahra Martin on 07/10/2015.

12. I conducted record checks in DHS indices for [REDACTED] which revealed this alien file number is assigned to [REDACTED] DOB: [REDACTED], a citizen of Mexico.

13. I conducted record checks in CLEAR databases for Social Security number [REDACTED] which returned to [REDACTED] DOB: [REDACTED] of Oliver Springs, TN.

14. [REDACTED] further stated ARRIVILLAGA's last known address was [REDACTED] Sioux Falls, SD. A search of CLEAR databases identified ARRIVILLAGA's last known address as [REDACTED] as of 04/30/2018.

15. In the morning hours of 08/29/2018, I conducted a spot surveillance of [REDACTED] Sioux Falls, SD. I observed a grey/silver Ford Ranger and a grey/silver Honda Accord parked in the driveway. The Ranger displayed South Dakota license plate [REDACTED], returning to a grey 2004 Ford Ranger, registered to Carlos A. DELEON of [REDACTED] Sioux Falls, SD. The Accord displayed South Dakota license plate [REDACTED], returning to a 2013 silver

Honda Accord, registered to Isabel ARRIVILLAGA of [REDACTED]
Sioux Falls, SD.

16. At approximately 1715 hours, I returned to [REDACTED]. Upon arrival, I observed a Hispanic male matching the description of Mariano ARRIVILLAGA and appeared to be ARRIVILLAGA. The male was wearing a florescent orange shirt and sitting on the front steps while speaking on the phone. I observed the previously identified Ford Ranger and Honda Accord parked in the driveway, as well as a grey/silver Honda Pilot. The Honda Pilot displayed South Dakota license plate [REDACTED], returning to a silver 2009 Honda Pilot, registered to Isabel ARRIVILLAGA of [REDACTED], Sioux Falls, SD. I used binoculars to more closely view the male and positively identified the male as Mariano ARRIVILLAGA. At approximately 1730 hours, I observed ARRIVILLAGA turn around and walk into the residence through the front door without knocking. When ARRIVILLAGA turned around I could see the back of ARRIVILLAGA's shirt displayed the word and logo of [REDACTED].

17. On 08/30/2018, I received a verification letter from the Social Security Administration (SSA) for number [REDACTED]. The SSA stated number [REDACTED] is a valid number but not assigned to Mariano ARRIVILLAGA.

18. On 09/01/2018, [REDACTED] contacted me and stated they had observed a red Toyota Tacoma believed to be associated with ARRIVILLAGA parked one block west of [REDACTED] at the intersection of Blaine Avenue and Prospect Street, identified as of [REDACTED], Sioux Falls, SD. [REDACTED] provided a license plate of South Dakota [REDACTED]. [REDACTED] further stated the vehicle also displayed a Guatemala flag. Queries for this vehicle return to a red 2017 Toyota Tacoma, registered to Rafael BENAVIDES and Cristian RIVERA-Barrientos, with a lease address of [REDACTED] Atlanta, GA.

19. On 09/05/2018, ARRIVILLAGA-Arana was indicted in the District of South Dakota for 18 U.S.C. § 1546(a) Use of Fraudulent Document and a warrant of arrest was issued.

20. On 09/11/2018, I conducted a spot surveillance of [REDACTED]. At approximately 0745 hours, I drove past the residence and observed a red Toyota Tacoma pickup displaying South Dakota license plate [REDACTED] parked in the driveway. I continued surveillance until 0810 hours, however there was no movement from the residence or movement of the Tacoma. At approximately 1042 hours and 1130 I drove past the residence and observed the red Tacoma parked in the same location in the driveway.

21. On 09/14/2018, I applied for and received a federal search warrant to search [REDACTED] Sioux Falls, SD, for evidence of 18 U.S.C. § 1546(a) Possession or Use of Fraudulent Documents, 8 U.S.C. § 1326(a) Illegal

Re-entry, and 18 U.S.C. § 922(g)(5) Illegal Alien in Possession of Firearm. However, the search warrant was not served in order to follow-up on further information received regarding ARRIVILLAGA.

22. On 09/17/2018, at approximately 2050 hours, [REDACTED] contacted me and advised they had observed ARRIVILLAGA's red Toyota Tacoma parked in the driveway of [REDACTED] Sioux Falls, SD.

23. On 09/19/2018, at approximately 0730 hours, I conducted a spot surveillance of [REDACTED] and did not observe any vehicles near the residence. At approximately 1730 hours, I returned to [REDACTED] and observed the red Toyota Tacoma displaying South Dakota license plate [REDACTED] parked in the driveway. I conducted record checks in CLEAR databases for [REDACTED] which returned a record for Rafael BENAVIDES as of 08/18/2018.

24. On 10/16/2018, I contacted [REDACTED] and requested further information relating to ARRIVILLAGA. A Human Resource representative stated ARRIVILLAGA is currently working on the Fleet Farm construction project near I-29 and Benson Road, Sioux Falls, SD. The representative also provided a last known phone number of [REDACTED] for ARRIVILLAGA. I queried a social media platform for [REDACTED] which returned to a profile for ARRIVILLAGA.

25. On 10/18/2018, [REDACTED] contacted me and advised they observed ARRIVILLAGA working at the Fleet Farm construction project on Benson Road, Sioux Falls, SD. [REDACTED] stated ARRIVILLAGA was wearing a florescent shirt. [REDACTED] further stated they observed ARRIVILLAGA enter a silver Honda CR-V with South Dakota license plate [REDACTED] and drive away. I conducted queries for this license plate, which returned to a silver 2003 Honda CR-V, registered to Isabel ARRIVILLAGA of [REDACTED] Sioux Falls, SD.

26. On 10/19/2018, the Sioux Falls Police Department (SFPD) assisted with surveillance of ARRIVILLAGA. At approximately 1820 hours, SFPD Officer Meath contacted me and advised a surveillance of ARRIVILLAGA has just been completed. Officer Meath stated shortly after 1700 hours ARRIVILLAGA's vehicle, a silver Honda CR-V with South Dakota license plate [REDACTED] was observed at [REDACTED], Sioux Falls, SD. SFPD Officer's subsequently observed ARRIVILLAGA enter the Honda CR-V and drive away from the residence. SFPD Officers followed ARRIVILLAGA for a short time and terminated the surveillance.

27. On 10/23/2018, I conducted spot surveillance of [REDACTED] and the Fleet Farm construction project. At approximately 0615 hours I drove past [REDACTED] Sioux Falls, SD, and observed ARRIVILLAGA's vehicle, a silver 2003 Honda CR-V with South Dakota license

plate [REDACTED], parked in the driveway. I conducted surveillance until 0630 hours however the vehicle did not move. At approximately 0805 hours, I drove past the Fleet Farm construction project located at Benson Road and I-29, Sioux Falls, SD. From a distance using binoculars, I observed a silver Honda CR-V which appeared to be ARRIVILLAGA's vehicle, parked near a [REDACTED] panel truck. I also observed numerous workers wearing florescent clothing in the area.

28. It is my experience that illegal aliens almost always maintain legally issued documents from their native country, such as passports, consular cards, cedula, and birth certificates, in a place that they consider secure and where they are readily accessible. Most frequently, these documents are kept within the privacy and security of their home. It is a common practice among illegal aliens to not carry their legally issued foreign documents on their person because they frequently use aliases.

29. It is my training and experience that illegal aliens purchase fraudulent identities to elude detection from law enforcement and obtain employment in the United States. I have investigated and arrested numerous illegal aliens for fraudulently assuming the identity of other persons and/or using the Social Security numbers of other individuals.

30. It is my training and experience that illegal aliens purchase fraudulent identities from criminal organizations involved with the manufacture and distribution of fraudulent documents. Illegal aliens seeking to purchase fraudulent documents commonly call or text the document vendor from their cellular phone to negotiate the purchase. Upon reaching an agreement, the illegal alien requesting the fraudulent documents will send a photo of themselves and associated biographical information via text message to the document vendor.

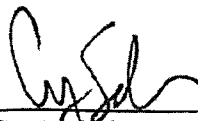
31. It is my experience that illegal aliens who use fraudulent documents almost always maintain their fraudulent documents in a place that they consider secure and where they are readily accessible. Such persons rarely, if ever, dispose of their fraudulent documents after they have been used to secure employment. Most frequently, these documents are kept within the privacy and security of their home. This is a common practice among illegal aliens in order to avoid the confiscation of their fraudulent documents by law enforcement.

32. It is my experience that illegal aliens who utilize fraudulent documents commonly reside with other individuals who are illegally present in the United States, such as relatives, friends and co-workers. It is my experience that these cohabitants commonly possess and utilize fraudulent documents to obtain employment.

33. I respectfully submit there is probable cause to believe that a search of the residence located at 811 S. Cleveland Avenue, Sioux Falls, South Dakota, more particularly described in **Attachment A**, will provide evidence regarding a

violation of 18 U.S.C. § 1546(a), 8 U.S.C. § 1326(a) and 18 U.S.C. § 922(g)(5) more particularly described in **Attachment B**, in that Mariano ARRIVILLAGA-Arana used fraudulent document to obtain employment in violation of 18 U.S.C. § 1546(a), is a previously deported alien who has unlawfully re-entered the United States, in violation of 8 U.S.C. § 1326(a) and prohibited to possess a firearm, in violation of 18 U.S.C. § 922(g)(5).

34. I respectfully request a search warrant be issued to search the residence at [REDACTED], Sioux Falls, South Dakota, all vehicles on the property owned or operated by Mariano ARRIVILLAGA-Arana to include South Dakota [REDACTED] a silver 2003 Honda CR-V, and the person of Mariano ARRIVILLAGA-Arana, DOB: [REDACTED] to search for evidence of the commission of a criminal offense, concerning violations of 18 U.S.C. 1546(a), 8 U.S.C. § 1326(a), and 18 U.S.C. § 922(g)(5).



Craig Scherer, Special Agent
Homeland Security Investigations

Subscribed and sworn to before me at Pierre, South Dakota, this 25th

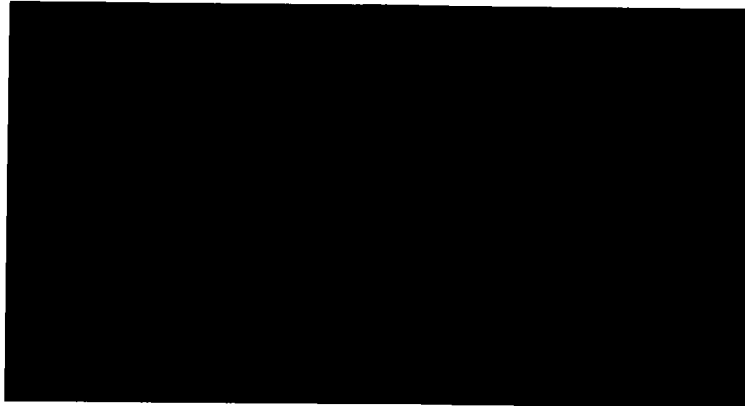
day of October, 2018.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A "REDACTED"
DESCRIPTION OF PROPERTY TO BE SEARCHED



1. [REDACTED], Sioux Falls, South Dakota, which is more particularly described as a grey colored single-family home, with white trim and an unattached two-stall garage. The numbers [REDACTED] are affixed to the front of the residence.
2. Any garages, storage units or outbuildings that are associated with [REDACTED], Sioux Falls, South Dakota.
3. Any vehicles present at the residence owned or operated by Mariano ARRIVILLAGA-Arana.
4. South Dakota [REDACTED], a silver 2003 Honda CR-V, registered to Isabel ARRIVILLAGA of [REDACTED], Sioux Falls, SD.
5. The person of Mariano ARRIVILLAGA-Arana, DOB: [REDACTED]
[REDACTED]


ATTACHMENT B "REDACTED"
DESCRIPTION OF PROPERTY TO BE SEARCHED FOR AND SEIZED

1. All identity documents, foreign or domestic, to include but not limited to birth certificates, passports, identification cards, driver licenses or social security cards.
2. All immigration documents, to include but not limited to cards, receipts, correspondence or other papers.
3. All correspondence relating to the employment of Mariano ARRIVILLAGA-Arana, or other persons residing at target location.
4. All persons determined to be in the United States contrary to law.
5. Evidence concerning the purchase, possession or sale of firearms and ammunition.
6. All cellular devices utilized by Mariano ARRIVILLAGA-Arana to include all contents and electronically stored records relating to violations of 18 U.S.C. §§ 922(g)(5) and 1546(a) and 8 USC § 1326(a), including:
 - a) any information related to the employment;
 - b) lists of contacts and related identifying information;
 - c) types, amounts, and prices of fraudulent documents, as well as dates, places, and amounts of specific transactions;
 - d) any information related to sources of fraudulent documents, including names, addresses, phone numbers, or any other identifying information;
 - e) Photographs and/or videos, in particular, photographs and/or videos of co-conspirators and fraudulent documents.
 - f) Evidence of user attribution showing who used or owned the device at the time the things described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored, including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.

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TO: ANY AUTHORIZED LAW ENFORCEMENT OFFICER

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property more fully described in Attachment A, attached hereto and incorporated herein by reference.

I find that the affidavit, or any recorded testimony, establish probable cause to search and seize the property described above, and that such search will reveal evidence of violations of 18 U.S.C. §§ 922(g)(5) and 1546(a) and 8 U.S.C. § 1326(a), which is more fully described in Attachment B, attached hereto and incorporated herein by reference.

YOU ARE COMMANDED to execute this warrant on or before
November 8, 2018 (not to exceed 14 days)

☒ in the daytime - 6:00 a.m. to 10:00 p.m.

☐ at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to the undersigned Judge.

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized,

☐ for _____ days (not to exceed 30).

☐ until, the facts justifying, the later specific date of _____.

October 25, 2018 @ 2:02 p.m.

Central Home

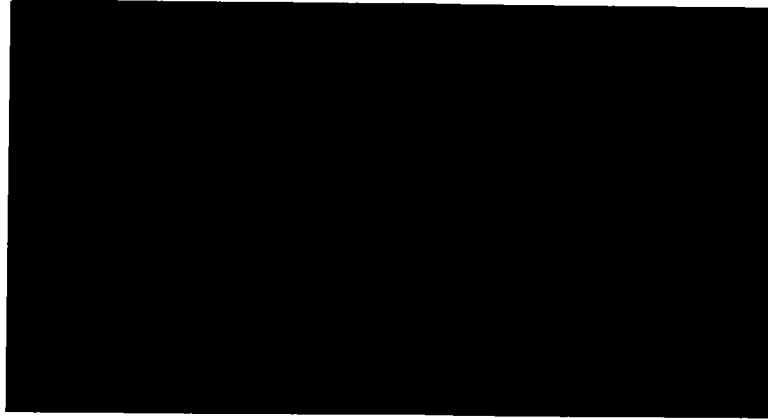
Date and Time Issued

Perme,
at ~~Sioux Falls~~, South Dakota

Mark A. Moreno

MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

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